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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/072,605	02/05/2002	Michael J. Renn	ODC2000-1-CIPB	1467
5179	7590	12/14/2005	EXAMINER	
PEACOCK MYERS, P.C. 201 THIRD STREET, N.W. SUITE 1340 ALBUQUERQUE, NM 87102				HUFFMAN, JULIAN D
			ART UNIT	PAPER NUMBER
			2853	

DATE MAILED: 12/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/072,605	RENN, MICHAEL J.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Julian D. Huffman	2853	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 11 October 2005.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1,2,10-13 and 20-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 11-13,20 and 27-30 is/are allowed.
- 6) Claim(s) 1,10 and 26 is/are rejected.
- 7) Claim(s) 2 and 21-25 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All
  - b) Some \*
  - c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>10/31/05, 11/21/05</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Claim Objections*

1. Claim 1 is objected to because of the following informalities:

In claim 1, lines 3-4, the language "said material source means" lacks antecedent basis by way of the amendment that removes the language "means".

Appropriate correction is required.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1, 10 and 26 are rejected under 35 U.S.C. 102(e) as being anticipated by Brockmann et al. (U.S. 6,348,687 B1).

Brockmann et al. discloses :

With regards to claim 1, an apparatus comprising:

a material source (fig. 9, element 902) for supplying a material to be deposited (column 6, line 57);

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an atomizer (element 900) for producing a plurality of discrete particles from said material source means (tube 900 flows discrete particles from the source of particles);

a carrier gas (902 holds carrier gas) for propelling said plurality of discrete particles generally toward a substrate (the carrier gas flows the particles towards the substrate, column 1, lines 38-41);

a coflowing sheath gas (element 903 holds sheath gas) which surrounds said carrier gas for controlling the direction of flight of said plurality of discrete particles (column 4, lines 61-67 and column 5, lines 16-18); and

a single orifice (907) for narrowing a particle stream comprising said coflowing sheath gas, said carrier gas, and said plurality of discrete particles sufficiently to form a deposited feature comprising a feature size of less than one millimeter on the substrate (column 2, lines 48-50).

With regards to claim 10, the coflowing sheath gas forms a boundary layer that prevents the plurality of discrete particles from depositing onto walls of an orifice nozzle (fig. 5a, the sheath gas injector 501 surrounds the carrier gas and prevents it from contacting the nozzle 300).

With regards to claim 26 a laser for processing the discrete particles (column 1, lines 62-64).

***Allowable Subject Matter***

4. Claims 2 and 21-25 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 11-13, 20 and 27-30 are allowed.

***Response to Arguments***

5. Applicant's argument that Brockmann discloses plural orifices while applicant's invention uses only one orifice is noted. With regards to claim 11, this argument is persuasive due to the claim language "subsequently passing the particles through no more than one orifice".

However, with regards to claim 1, the features upon which applicant relies (i.e., only one orifice) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

The language "a single orifice" does not exclude additional orifices.

***Conclusion***

**6 THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Julian D. Huffman whose telephone number is (571) 272-2147. The examiner can normally be reached on 10:00a.m.-6:30p.m. Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephen Meier can be reached on (571) 272-2149. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Julian D. Huffman  
1 December 2005

✓ 11-12/68  
A. FEGGINS  
PRIMARY EXAMINER